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In re Application of	:	
WILSON, Eric	:	DECISION ON
Application No.: 10/539,851	:	
PCT No.: PCT/AU2003/02420	:	
Int. Filing Date: 22 December 2003	:	PETITION UNDER
Priority Date: 20 December 2002	:	
Attorney Docket No.: 366-003	:	
For: Search Engine Result Reporter	:	37 CFR 1.181

This decision is in response to the "PETITION REQUESTING WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)" received 08 December 2005, requesting that the abandonment be withdrawn because the basic national fee was paid within 30 months of the priority date as evidenced by the itemized stamped postcard.

BACKGROUND

On 22 December 2003, this international application was filed, claiming an earliest priority date of 20 December 2002. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 20 June 2005.

On 20 June 2005, applicant filed a Transmittal letter for entry into the national stage in the United States, and it is alleged that the filing was accompanied by requisite basic national fee as required by 35 U.S.C. 371 (c)(1). In addition, an executed declaration as required by 35 U.S.C. 371(c)(4) was submitted on such date.

On 18 November 2005, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909), which indicated that applicant had failed to provide the full U.S. Basic National Fee by 30 months.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 18 November 2005, petitioner submitted on 08 December 2005 the instant petition requesting withdrawal of the Notice of Abandonment. In support of the petition, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of the basic national fee on 20 June 2005.

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DISCUSSION

Applicant's petition provides a copy of the stamped itemized postcards and it bears a date of 20 June 2005 and indicates the following items, inter alia, as filed on such date:

- (1) Postcard Mailing Receipt
- (2) Filing Fee (charge form for \$690)
- (3) Transmittal Letter for Submission Under 35 USC 371 (PTO-1390)
- (4) New Combined Inventor's Declaration and Power of Attorney.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that the basic national fee was deposited with the U.S. Patent and Trademark Office on 20 June 2005.


Accordingly, petitioner's response- the payment of the basic national fee on June 20, 2005 is considered timely. Accordingly, the instant application has been improperly abandoned. The NOTIFICATION OF ABANDONMENT mailed on 18 November 2005 was improper.

DECISION

The petition under 37 CFR 1.181 is GRANTED.

Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is GRANTED. The NOTIFICATION OF ABANDONMENT, mailed 18 November 2005 has been VACATED.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of 20 June 2005.


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